

# Chapter 10 - CHANGES IN EMPLOYMENT STATUS

## SECTION 1. CHANGES IN EMPLOYMENT STATUS

Changes in employment status that include transfers, promotion, reassignments and demotions may be initiated in the manner that includes the following:

- The employee applying for and getting selected to a vacancy
- Nation President or Trial Judge, as appropriate, making changes in the organizational structure and/or work responsibilities
- The supervisor making a recommendation for change
- Human Resource Office through a classification action
- In the event of a demotion through disciplinary action

A promotion is defined as when an employee moves to a position that is a higher grade level (i.e. JS2 to JS4); a demotion is defined as when an employee moves to a position that is a lower grade level (JS6 to JS3); a transfer is defined as when an employee moves to a position that is the equivalent grade level; a reassignment is defined as when an employee is unable to perform the duties of their position for a specific period of time or due to extending circumstances. Reassignments require Director or Executive Leadership approval.

An employee status change requires formal action by the Human Resource Office and the action is reflected in an official Personnel Action Form. The request is authorized and approved by Executive Leadership or Court Administrator, as appropriate.

## SECTION 2. PROMOTION

Nation employees are allowed to apply for positions in a higher class, grade or status, which is considered to be a promotion. The promotion may be to a position in the same class or grade but to one, which is considered to have a better career advancement opportunity, increase responsibility or status. Recruitment for vacancies with promotional opportunity may be within a Department or for reassignment from within the Nation.

An applicant for a promotion must meet or exceed the requirements of a position for which applied. A primary consideration in evaluating the qualifications of an employee applying for a promotion will be the quality of performance in the employee's current position. The selection process and recommendation of an applicant for promotion shall be made following the selection procedures established in this manual.

An employee selected to a vacancy through promotion shall work through Executive Leadership or Court Administrator and the Human Resource Office to make appropriate arrangements for the change and to establish the effective date of the promotion. A

probationary period is required when selection to a position is made on the basis of a promotion.

### SECTION 3. EVALUATION REQUIREMENT FOR PROMOTED EMPLOYEE

A Classified or Court employee promoted to a new position will be required to serve a formal thirty-day (30) evaluation period, similar to the probationary period required for a new employee. The reason for this requirement is that the employee may be working in a new environment, setting, discipline or field, which demands adjustment to work requirements. For that reason, Executive Leadership or Court Administrator is required to conduct at least one formal performance evaluation during the thirty-day (30) evaluation period.

During this evaluation, if the employee's performance is found to be lacking or unsatisfactory, an action plan will be developed to raise performance to an acceptable level. If after this process is completed and the employee continues to have performance problems, formal action shall be taken which may include restructuring the job with lower pay, disciplinary action, and/or termination.

As it is the intent and desire of the Nation that employees be successful in their work assignment; therefore, Directors and Supervisors are expected to provide guidance and assistance to the promoted employee.

### SECTION 4. STATUS CHANGE DUE TO POSITION CLASSIFICATION

The employment status of an employee may be affected as a result of a position classification action. This type of action may result when in the process of a job evaluation, it is determined that the position no longer can justify the grade level at which it is classified. The result of such action may be a promotion or demotion for the employee occupying the position. Because a status change as result of a position classification is at no fault of the employee, the employee may retain pay for a specified period of time in the event of a demotion, or if promoted, receive the pay to which promoted. This type of action is defined in more detail in the chapter on position classification.

### SECTION 5. REASSIGNMENT/ INTERIM ASSIGNMENTS

A Classified or Court employee may be reassigned to a position equal to or of lesser grade, status and/or pay when an employee is unable to perform the functions of their position for a specified period of time or due to extenuating circumstances. An example of when a reassignment may be appropriate is presented here. If, because of extenuating circumstances, physical incapacitation or because of some other form of extreme hardship, a person is unable to adequately perform the requirements of the position but is legally not considered handicapped or disabled, such person may request reassignment to a different position in the Nation.

An employee who has been appointed to an acting or interim position may receive a pay increase while in the interim position. At the end of the assignment the employee will be returned to their previous position at their previous salary. Executive Leadership is responsible for completion of the Personnel Action Form that must be returned to the Human Resources Office.

A Classified or Court Employee who wishes to transfer or be reassigned to another position within the Jicarilla Apache Nation Government should apply for other positions utilizing the internal recruitment process.

## SECTION 6. VOLUNTARY DEMOTION

A Classified or Court employee may request to be demoted to a position in another class or grade having a lower maximum salary range, responsibility or status. With the approval of the Nation President or Trial Judge, as appropriate, an employee may be voluntarily demoted when such action would be in the best interest of the employee and the Nation. A request for voluntary demotion must be made in writing to the Human Resource Office, through Executive Leadership or Court Administrator, who shall make a determination to grant or deny the request. The employee requesting the action shall not have the right to pick or choose a position to which a voluntary demotion action is to be taken. The Human Resource Office, if the request is granted will screen vacant positions to which a voluntary demotion may be made. With the approval of the Tribal President or Trail Judge, as appropriate, such a voluntary demotion will be allowed.

Voluntary Demotion shall not be considered disciplinary action or shall not disqualify an employee from consideration for later advancement.

## SECTION 7. DEMOTION FOR CAUSE

An employee may be demoted for inadequate performance or through performance related disciplinary action. The demotion is made to a position having a lower salary range, responsibility, or status. A demotion action is taken in lieu of termination or on the condition that if performance does not improve the result may be termination. Executive Leadership or Court Administrator recommends the demotion in writing to the Human Resource Office. The Human Resource Director upon completing a full inquiry makes a recommendation to the Nation President or Trial Judge, as appropriate. The disciplinary action procedures described in this manual shall be followed.

## SECTION 8. REINSTATEMENT

A former Nation employee, who has been terminated due to lack of funds or work, shall receive prior consideration for vacancy for which he or she is qualified and meets minimum qualifications and wishes to be considered. Reinstatement shall apply only in those

instances where an individual has lost employment due to lack of work or funds and was through no fault of that individual.

The Human Resource Office shall maintain a current list of individuals eligible for reinstatement. Reinstatement eligibility shall be for a period of one year from the date of involuntary termination. The Human Resource Office shall have the responsibility to transmit the employee's personnel records to the department in which a vacancy exists and make the Interviewing Board aware that there are candidates available that are eligible for reinstatement.

Persons who have voluntarily terminated their employment or have been terminated through disciplinary action are not eligible for reinstatement.